



CITY OF MORRO BAY HARBOR ADVISORY BOARD A G E N D A

The City of Morro Bay is dedicated to the preservation and enhancement of the quality of life. The City shall be committed to this purpose and will provide a level of municipal service and safety consistent with and responsive to the needs of the public.

Regular Meeting - Thursday, February 4, 2016 Veteran's Memorial Building - 6:00 P.M. 209 Surf Street, Morro Bay, CA

Bill Luffee, Chair	Marine Oriented Business
Dana McClish, Vice Chair	Recreational Boating
Alan Alward	Morro Bay Commercial Fishermen's Organization
Gene Doughty	South Bay/Los Osos
Neal Maloney	Waterfront Leaseholders
Lynn Meissen	Member at Large
Ron Reisner	Member at Large
Tom Hafer	Alternate to Alan Alward (MBCFO)
Joe Conchelos	Alternate to Alan Alward (MBCFO)

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

CHAIR AND ADVISORY BOARD MEMBER ANNOUNCEMENTS & PRESENTATIONS

PUBLIC COMMENT PERIOD

Members of the audience wishing to address the Board on City business matters other than scheduled items may do so at this time. To increase the effectiveness of the Public Comment Period, the following rules shall be followed:

- When recognized by the Chair, please come forward to the podium and state your name and address for the record. Board meetings are audio and video recorded and this information is voluntary and desired for the preparation of minutes.
- Comments are to be limited to three minutes.
- All remarks shall be addressed to the Board, as a whole, and not to any individual member thereof.
- The Board respectfully requests that you refrain from making slanderous, profane or personal remarks against any elected official, Board member and/or staff.
- Please refrain from public displays or outbursts such as unsolicited applause, comments or cheering.
- Any disruptive activities that substantially interfere with the ability of the Board to carry out its meeting will not be permitted and offenders will be requested to leave the meeting.
- Your participation in Board meetings is welcome and your courtesy will be appreciated.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Harbor Department's Office Assistant at (805) 772-6254. Notification 24 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

A. CONSENT CALENDAR

- A-1 Approval of Minutes from Harbor Advisory Board meeting held on January 7, 2016
Staff Recommendation: Approve minutes.

B. PUBLIC HEARINGS, REPORTS, AND APPEARANCES

- B-1 Harbor Department Status Report
Staff Recommendation: Receive and file.

C. BUSINESS ITEMS

- C-1 Update from the Marine Services Facility/Boatyard Ad-Hoc Committee on Committee's Recent Activities
Staff Recommendation: Receive and file.
- C-2 Update from the Finance & Budget Ad-Hoc Committee on Committee's Recent Activities
Staff Recommendation: Receive and file.
- C-3 Update from the Eelgrass Ad-Hoc Committee on Committee's Recent Activities
Staff Recommendation: Receive and file.
- C-4 Update from the Marine Sanctuaries Ad-Hoc Committee on Committee's Recent Activities, Including Consideration of Ad-Hoc Committee Written Report Dated February 4, 2016
Staff Recommendation: Receive Ad-Hoc committee update and consider material provided in the committee's written report dated February 4, 2016.

D. DECLARATION OF FUTURE AGENDA ITEMS

E. ADJOURNMENT

This agenda is subject to amendment up to 72 hours prior to the date and time set for the meeting. Please refer to the agenda posted at the Morro Bay Harbor Department, 1275 Embarcadero, for any revisions or call the department at 772-6254 for further information.

Materials related to an item on this Agenda are available for public inspection during normal business hours at the Harbor Department and at Mill's/ASAP, 495 Morro Bay Boulevard, or online at www.morrobayca.gov. Materials related to an item on this Agenda submitted to the Board after publication of the Agenda packet are available for inspection at the Harbor Department during normal business hours or at the scheduled meeting.



AGENDA NO: A-1

MEETING DATE: February 4, 2016

CITY OF MORRO BAY

HARBOR ADVISORY BOARD

SYNOPSIS MINUTES

The regular meeting of the City of Morro Bay Harbor Advisory Board was held Thursday, January 7, 2016 at 6:00 PM in the Veteran's Hall, 209 Surf ST, Morro Bay, California.

ESTABLISH QUORUM AND CALL TO ORDER

Present:	Members:	Alan Alward (MBCFO Rep)
		Gene Doughty
		Bill Luffee
		Neal Maloney
		Dana McClish
		Lynn Meissen
		Ron Reisner
	Staff:	Eric Endersby, Harbor Director
		Polly Curtis, Office Assistant

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

CHAIR AND ADVISORY BOARD MEMBER ANNOUNCEMENTS & PRESENTATIONS

Mr. Doughty reminded the public about El Nino storms, saying boaters need to secure their mooring pennant lines.

Chair Luffee said the 2016 goal-setting meeting of the Friends of the Harbor Department will be held on January 21st at 6:00 PM at the Morro Bay Yacht Club. He also reminded the public to take a look at the website, which outlines opportunities to get involved in 2016. The website is www.friendsoftmbhd.org

Mr. Reisner emphasized the importance of boaters to check their bilge pumps now that the winter storms are here.

PUBLIC COMMENT

Mr. Don Doubledee, Executive Director of the Harbor Festival, said the event in October was totally reinvented and was very successful. In 2016 the Harbor Festival will again have free admission, local vendors only including fishing groups, and be in partnership with the City, the Tourism Board and the Harbor Department; also the Harbor Fest relies on sponsorship support. He said the local Maritime Museum Association was the recipient of \$10,000 from Harbor Fest proceeds. He thanked all participants, and said three members of the Board of Directors have stepped down; so he is looking for three new members. Mr. McClish thanked Mr. Doubledee, and said people enjoyed the First Annual Harbor Fest Cup sailing event that ran in conjunction with the Harbor Festival.

A. CONSENT CALENDAR
A-1 MINUTES

Mr. Alward moved the December 3, 2015 Harbor Advisory Board minutes be approved as submitted. The Motion was seconded by Mr. Doughty and carried unanimously.

B. PUBLIC HEARINGS, REPORTS, AND APPEARANCES
B-1 Harbor Department Status Report

Mr. Endersby briefed the Board on the following topics:

El Nino & Surf Rescues Jan 7

Coast Guard Safety Zone Establishment

Recent Department Activity

Harbor Patrol and Coast Guard Hazmat Training, Dec 9

Harbor Patrol Vessel 3868

Friends of the Harbor Department

Next Meeting Jan 21 at 6PM at MB Yacht Club

Beach Wheelchair and JR Lifeguards Rescue Boards

Recent City Council Activity

License Agreements for GAFCO and Harbor Hut

Lease Site 65-66/65W-66W

Fishery News

Continuing Dungeness Crab Closure

Morro Bay National Estuary Program

Upcoming Events

Winter Bird Festival Jan 15-18

Past Events

Lady Washington Dec 1-8

Lighted Boat Parade Dec 5

Creek Cleanup Homeless Camps Dec 9-10

Polar Bear Dip Jan 1

NOAA Marine Sanctuary Meeting Jan 6

C. BUSINESS ITEMS

C-1 Update from the Marine Services Facility/Boatyard Ad-Hoc Committee on Committee's Recent Activities

Mr. McClish reviewed some of the Ad-Hoc Committee's activities, including the Mini-Master Plan and council's approval of \$10,000 to RRM Design. He also showed the Board a video of a 24-foot sailboat being transported on a "mule" or dolly on the Santa Barbara breakwater from the boat storage yard to the jib crane, a process which took about five to ten minutes. He said if Morro Bay included this type of mule with the boatyard, it would assist many sailboat owners to launch, whereas now it takes nearly all day at the launch ramp.

Discussion by the Board including further recommendations for boatyard locations. Mr. McClish said it is a bit late in the game to be suggesting other locations, but if there is anyone out there who is developing another plan for an alternate Marine Facility, please let the Ad-Hoc Committee know as soon as possible.

C-2 Update from the Finance & Budget Ad-Hoc Committee on Committee's Recent Activities

Mr. Endersby said the mid-year budget review for the last six months is due to the Finance Director now; he will then meet again with the Ad-Hoc Committee.

C-3 Update from the Eelgrass Ad-Hoc Committee on Committee's Recent Activities

Ms. Meissen said the Committee has met once, and the members are: Mr. Maloney, and Mr. Doughty, and herself; she said the Committee established intermediate goals:

1. Investigate eelgrass mitigation projects in Morro Bay, in California, and nationally.
2. Become familiar with the eelgrass bank project in Newport Harbor.
3. Become familiar with any research and study projects being planned or completed in Morro Bay which can best encourage eelgrass.

Ms. Meissen said the Committee plans to meet with the NEP's eelgrass expert, Jen Nix, to begin this educational process to figure out where these projects currently stand, and to start gathering the data.

C-4 Update from the Marine Sanctuaries Ad-Hoc Committee on Committee's Recent Activities

Mr. Reisner reviewed the initial report, saying the Ad-Hoc Committee was formed for the purpose of educating itself, the Harbor Advisory Board, and then the City Council about the Federal Marine Sanctuaries Act and what the Act might mean for a hypothetical marine sanctuary to be established off the coast of Morro Bay. He said the areas of study of marine sanctuaries have been divided among the members as follows:

1. Mr. Alward: Potential regulatory nature.
2. Mr. Luffee: Local and regional economic aspects.
3. Mr. Reisner: Local, regional and state control issues.

Mr. Reisner said the Committee is studying these areas, and will pass on to the Board and Council what they learn. He reviewed in detail the meeting of January 6, 2016, held by the National Oceanic and Atmospheric Administration (NOAA) on the National Marine Sanctuaries Act and the purpose and function of marine sanctuaries.

Discussion by members of the Ad-Hoc Committee and the Board.

Mr. Reisner said the Ad-Hoc Committee recommends the local public information process regarding marine sanctuaries in general continue, and that it is done specifically through the organization of one or more additional public forums that feature representatives from California communities, harbors, ports, regional organizations, regional agencies, industry groups and native groups who have experienced living within an established sanctuary for a length of time.

Further discussion by the Board.

C-5 Status Update of the State Park Marina and Discussion and Input on Possible Dredge Material Disposal Options

Mr. Endersby reviewed the background and status of the State Park Marina and Operating Agreement; he said he believes the dredge material disposal issue must be resolved by identifying a cost-effective location before the City further commits to the renovation project. He asked the Board for input on the following:

1. Engaging a consultant to pursue regulatory approval for ocean or other aquatic disposal, including the existing nearshore disposal site or an in-bay confined aquatic disposal site.
2. Researching the use of dredge material as upland fill in nearby projects such as the new water reclamation facility, or the waste water treatment plant facility when it becomes abandoned, or the power plant site.
3. Researching the option of closing a portion of the marina to receive dredge material in order to preserve the rest of the marina to be dredged.

Chair Luffee opened the item to Public Comment:
There was no public comment.

Discussion by the Board.

MOTION: Mr. Reisner moved to recommend to City Council that the City engage consultancy relative to obtaining regulatory approval for cost-effective ocean or aquatic disposal of dredge spoils, and/or determine the practical and economic feasibility of utilizing dredge spoils as landfill. The Motion was seconded by Mr. Doughty and carried unanimously.

Further discussion by the Board and Mr. Endersby.

C-6 Election of Harbor Advisory Board Chair and Vice Chair

MOTION: Mr. Doughty moved to nominate Mr. Luffee as Chair of the Harbor Advisory Board. The Motion was seconded by Mr. Alward and carried unanimously.

MOTION: Mr. Reisner moved to nominate Mr. McClish as Vice Chair of the Harbor Advisory Board. Mr. McClish declined. No second or vote, and the Motion died.

MOTION: Ms. Meissen moved to nominate Mr. Reisner as Vice Chair of the Harbor Advisory Board. The Motion was seconded by Mr. McClish and carried unanimously.

D. DECLARATION OF FUTURE AGENDA ITEMS

Future:

Fish and Wildlife Hunting Regulations in the Back Bay
Coast Guard Building Location Plans
Condition of Restrooms on the Embarcadero
Inspecting Marine Sanitation Devices on All Vessels in Morro Bay Harbor

E. ADJOURNMENT

This meeting was adjourned at 8:40 PM.

Submitted by,



Polly Curtis
Harbor Department



AGENDA NO: B-1

MEETING DATE: February 4, 2016

Staff Report

TO: Harbor Advisory Board
FROM: Eric Endersby, Harbor Director

DATE: January 29, 2016

SUBJECT: Harbor Department Status Report

RECOMMENDATION

Receive and file.

DISCUSSION

Recent Department Activity:

The month was filled with water rescues due to dangerous entrance conditions, strong storm surges and ebb tides. As of today there were 22 emergency responses in January, with January 7 having the largest number of rescues with nine. This day consisted of rescuing several people from the “Widow Walls” surf area inside the North Jetty with strong ebb tide currents sweeping eight people on different occasions toward the harbor entrance with large 18-20 foot breaking waves. The ninth rescue on this day was a foolish daredevil inner-tuber on the north side of Morro Rock trapped in a recirculating current. He had to be saved by a Harbor Patrol rescue swimmer. One surfer this day attempted to assist his friend that was being swept toward the entrance at “Widow Walls,” and ended up having to scramble up onto the North Jetty to get out of the current, where he was summarily slammed down into the rocks by a wave overtopping the jetty. Fortunately his injuries were minor.

While the “Widow Walls” surf spot has become very popular, especially for beginners and small children, the public is severely cautioned that this spot can be deadly and is not always for beginners and children, or even experts for that matter. The sandbars in this area have shifted and moved a tremendous amount recently, and the result is a sweeping current on ebb tides that can sweep even strong surfers inescapably toward the harbor entrance and large breaking waves. Even the channel well inside the harbor entrance along this area during certain conditions is no place for anybody to be near.

In addition, we strongly advise the public to stay well back from the breaking waves on the North Jetty. Already this year we have had several severe injuries in this area because of people just getting too close – sometimes on purpose and sometimes by accident. Please stay well back and do not venture beyond the red “Danger” sign shown at the bottom of this report.

Prepared By: EE

Dept. Review: EE

Harbor Patrol statistics so far for January include 22 emergency responses and 110 calls for service. The month has seen 20 days of small craft advisories for either wind or swell, and 15 days of hazardous entrance conditions.

Recent City Council Activity:

At their January 12, 2016 meeting the Council declared January 2016 as “Morro Bay Winter Bird Festival Month.” Morro Bay is a Globally Important Bird Area located on the Pacific Flyway, and always ranks in the top ten for Audubon Christmas Bird Count, with over 200 bird species usually sighted during Festival weekend.

Also at the January 12 meeting, the Council approved the Central Coast Aquarium’s (CCA) proposal to build a new aquarium on Lease Site 69-70/69W-70W, gave Consent of Landowner for their proposal and directed staff to continue working in close partnership with CCA to bring a concept plan to the Planning Commission by December 31, 2016. A link to the Council staff report on the item is <http://www.morrobayca.gov/ArchiveCenter/ViewFile/Item/2638>

At their January 26 meeting, the Council approved authorization for a three-person delegation to attend the California Marine Affairs and Navigation Conference (C-MANC) “Washington Week” meetings in Washington, D.C. This year’s meetings are scheduled for March 15-17, 2016.

Also at the January 26 meeting, the Council withdrew the existing Consent of Landowner issued on February 18, 2014 for the project proposed for Lease Site 87-88/87W-88W located 833 Embarcadero by B&L Flash, Inc. Council further directed staff to work with a new lease redevelopment team, B&L Flash and Under the Sea Gallery subtenant Cherise Hansson, to bring a new redevelopment proposal within 90 days for Consent of Landowner consideration.

In addition to the regular Council meetings, two Study Sessions took place on January 12 and 26, 2016, where the City Council discussed the Fiscal Year 2016-2017 Objectives to its adopted goals. These are scheduled to be adopted in February 2016. Once the objectives are adopted, department staff will develop work plans to implement the objectives per the Council’s recently adopted Work Plan Development Structure, included with this staff report as Attachment 1.

C-MANC Winter meeting and Washington Week:

During the week of January 18, your Harbor Director attended C-MANC’s Winter meeting in Marina del Rey. This meeting is largely a work-up to the Washington D.C. C-MANC week of March 15-17. This year the Mayor, City Manager and Harbor Director are again going to D.C.

Upcoming Events:

Feb 22-24, K38 training will be conducted here in Morro Bay. Harbor Patrol will be sending two Harbor Patrol Reserve Officers, one MB Lifeguard and two MB Fire personnel to the training.

Past Events:

January 6, 2015 NOAA Sanctuary presentation for the public and others to learn about national marine sanctuaries on the West Coast, how the sanctuary designation process works, and the status of the Chumash Heritage National Marine Sanctuary nomination that was accepted for consideration by NOAA earlier this year.

ATTACHMENT

1. Resolution 79-15, including City Council Work Plan Development Schedule.

These people are unnecessarily risking their lives and the lives of our rescue workers



RESOLUTION NO. 79-15

RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
ADOPTING THE 2016 CITY COUNCIL MEETING CALENDAR
AND WORK PLAN DEVELOPMENT STRUCTURE

THE CITY COUNCIL
City of Morro Bay, California

WHEREAS, the City Council adopts an annual calendar providing for the orderly course of business and to provide transparency and accountability to the public; and

WHEREAS, the City Council adopts annual objectives that aim to meet the adopted four-year goals; and

WHEREAS, annual objectives inform the work conducted by the City staff, and what items are generally brought before the City Council's advisory bodies; and

WHEREAS, in order to provide for a more orderly and functional system for addressing annual objectives, it is appropriate for staff to prepare annual work plans to meet said objectives; and

WHEREAS, it is important for the City Council's advisory bodies to be able to provide input on those annual work plans, as the items that come before those bodies will come directly from the work plans; and


WHEREAS, at times, there may be issues that have not been placed on a work plan that are of such import the advisory body may recommend doing so to the City Council; and

WHEREAS, it is appropriate for the City Council to provide a structure for the adoption of annual work plans and a mechanism for advisory bodies to recommend additions of items to said work plans.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, that the 2016 City Council Meeting Calendar is adopted pursuant to Exhibit A, and the City Work Plan Development Structure is adopted pursuant to Exhibit B.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on this 8th day of December, 2015 on the following vote:

AYES: Irons, Headding, Johnson, Makowetski, Smukler
NOES: None
ABSENT: None
ABSTAIN: None


JAMIE L. IRONS, Mayor

ATTEST:


DANA SWANSON, City Clerk

EXHIBIT A

2016 City Council Meeting Calendar

January 12

Study Session – Goals & Objectives
Regular Meeting

January 13

Closed Session

January 26

Study Session – Goals & Objectives
Regular Meeting

February 9

Closed Session
Regular Meeting

February 23

Regular Meeting

March 8

Closed Session
Regular Meeting

March 22

Study Session – Budget Forecast
Regular Meeting

March 29

Joint Meeting – Advisory Bodies

April 12

Joint Meeting – Advisory Bodies
Regular Meeting

April 13

Closed Session

April 26

Study Session – Advisory Board Guidance
Regular Meeting

May 10

Closed Session
Regular Meeting

May 24

Study Session – Budget
Regular Meeting

May 31

Study Session – Budget

June 14

Closed Session
Regular Meeting

June 28

Regular Meeting

July 12

Closed Session
Regular Meeting

July 26

BREAK

August 9

Closed Session
Regular Meeting

August 23

Regular Meeting

September 13

Closed Session
Regular Meeting

September 27

Regular Meeting

October 11

Closed Session
Regular Meeting

October 25

Regular Meeting

November 8

Election Day

November 15

Regular Meeting – Annual Goals Update

November 22

BREAK

December 5

Advisory Body Recognition Event

December 12

New Council Seated

December 13

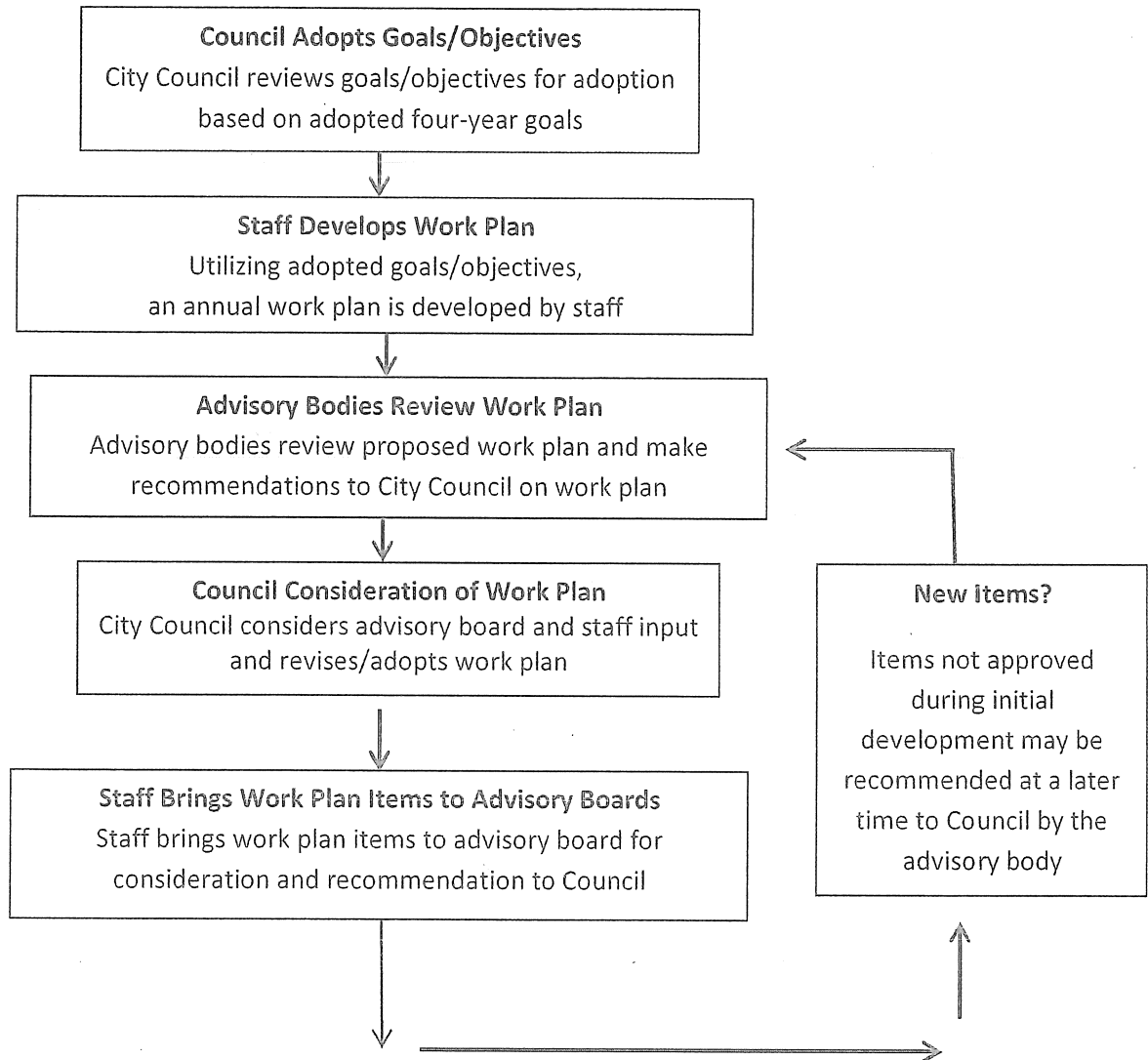
Regular Meeting – Advisory Board Interviews

December 27

BREAK

EXHIBIT B

Advisory Board Work Plan Process





AGENDA NO: C-1

MEETING DATE: February 4, 2016

Staff Report

TO: Harbor Advisory Board

DATE: January 29, 2016

FROM: Eric Endersby, Harbor Director

SUBJECT: Update from the Marine Services Facility/Boatyard Ad-Hoc Committee on Committee's Recent Activities

RECOMMENDATION

Receive and file.

DISCUSSION

The Marine Services Facility/Boatyard Ad-Hoc Committee will be presenting an oral update on their activities, if any. This is a standing committee report agenda item.

Prepared By: EE

Dept. Review: EE



AGENDA NO: C-2

MEETING DATE: February 4, 2016

Staff Report

TO: Harbor Advisory Board

DATE: January 29, 2016

FROM: Eric Endersby, Harbor Director

**SUBJECT: Update from the Finance & Budget Ad-Hoc Committee on
Committee's Recent Activities**

RECOMMENDATION

Receive and file.

DISCUSSION

The Finance & Budget Ad-Hoc Committee will be presenting an oral update on their activities, if any. This is a standing committee report agenda item.

Prepared By: EE

Dept. Review: EE



AGENDA NO: C-3

MEETING DATE: February 4, 2016

Staff Report

TO: Harbor Advisory Board

DATE: January 29, 2016

FROM: Eric Endersby, Harbor Director

**SUBJECT: Update from the Eelgrass Ad-Hoc Committee on Committee's
Recent Activities**

RECOMMENDATION

Receive and file.

DISCUSSION

The Eelgrass Ad-Hoc Committee will be presenting an oral update on their activities, if any.
This is a standing committee report agenda item.

Prepared By: EE

Dept. Review: EE



AGENDA NO: C-4

MEETING DATE: February 4, 2016

Staff Report

TO: Harbor Advisory Board

DATE: January 29, 2016

FROM: Eric Endersby, Harbor Director

SUBJECT: Update from the Marine Sanctuaries Ad-Hoc Committee on Committee's Recent Activities, Including Consideration of Ad-Hoc Committee Written Report Dated February 4, 2016

RECOMMENDATION

Receive Ad-Hoc committee update and consider material provided in the committee's written report dated February 4, 2016.

DISCUSSION

The Marine Sanctuaries Ad-Hoc Committee will be presenting an oral update on their activities, including a written report of their findings to date. This report is included with this staff report as Attachment 1.

This is a standing committee report agenda item.

ATTACHMENT

1. Morro Bay Harbor Advisory Board Marine Sanctuary Ad-Hoc Committee Report, February 4, 2016.

Prepared By: EE

Dept. Review: EE

Morro Bay Harbor Advisory Board
Marine Sanctuary Ad Hoc Committee Report
February 4, 2016

As previously reported this Committee was formed late 2015 for the purpose of educating itself, and hence the Harbor Advisory Board and then the City Council, about the Federal National Marine Sanctuaries Act, as amended by Congress in 2000, and what it might mean for a marine sanctuary to be established off the coast of Morro Bay.

The Committee members, Alan Alward, Bill Luffee and Ron Reisner, have initially divided their efforts into three macro areas of interest, as they relate to a hypothetical marine sanctuary off the coast of Morro Bay. Alan has taken on the potential regulatory nature of such a sanctuary, Bill has taken on the local and regional economic aspects of such a sanctuary, and Ron has taken the local, regional and State control issues relative to such a sanctuary.

This report is an update on the activities of the Committee, and contains information relative to each of the three macro areas of interest. The Committee's work is ongoing, and the Committee anticipates the process of educating itself, the Harbor Advisory Board, and the City Council will take a few months.

Economic Aspects

There seems to be conflicting reports on the impact of a Marine Sanctuary and a Region.

NOAA has published the economic aspects associated with a Sanctuary but I am not able to pull the data of before and after to determine the net gain.

IE: Based on a 3 year average from 2010 to 2012, the total economic impact from recreational fishing in California national marine sanctuaries-the so-called "ripple effect"-totaled \$213.1 million

According to NOAA a 2005 study, counties surrounding Thunder Bay National Bay National Marine Sanctuary garner \$100 million in sales associated with sanctuary activities, 39.1 million in personal income to residents, 59.1 million in value added and 1,704 jobs.

After looking at the University of Michigan Study in depth the conclusion that was garnered is the Marine Sanctuary Status can be leveraged into Economic Activity. The key is finding ways to get those coming for the Sanctuary to plan extended stays and to incorporate additional activities into their vacation.

Impact on Business: Stems from Positive Perception rather than direct influence and can be difficult to measure because it is hard to separate from the overall tourist season effect.

Monterey Bay National Marine Sanctuary provides opportunities for approximately 25 marine science facilities; these facilities employed almost 2,000 people in 2004 with a combined budget of over 200 million

I think the key question that I have not been able to answer is; would these facilities to be here with or without the sanctuary.

The same being said, for economic activity with or without status.

Further study needs to be gathered to try to get to that comparison

Regulatory Aspects

To study the impact of possible sanctuary regulations, one first needs to be aware of the definition of a “sanctuary resource”. In the definition section of the National Marine Sanctuaries Act (NMSA), as amended November 2000, one finds: *“sanctuary resource” means any living or nonliving resource of a national marine sanctuary that contributes to the conservation, recreational, ecological, historical, educational, cultural, archeological, scientific, or aesthetic value of the sanctuary.* This broad definition includes the atmosphere, the water column, the sea bottom and its substrate, and all the life contained therein. Upon designation, these resources become a Sanctuary’s resources, and come under the Sanctuary’s jurisdiction to regulate and protect within the specifics of a particular sanctuary designation document.

The general scope of regulation is identified in a given Sanctuary’s “Terms of Designation”. Once a Sanctuary is designated, these areas of regulation may only be modified by the same procedures as those involved in the original sanctuary designation. This provision sets a high hurdle for any change in the original Terms of Designation.

Per the NMSA, a sanctuary’s TERMS OF DESIGNATION, *“shall include the geographic area proposed to be included with the sanctuary, the characteristics of the area that give it conservation, recreational, ecological, historical, research, educational or esthetic value, and the types of activities that will be subject to regulation by the Secretary [of Commerce] to protect those characteristics. The terms of designation may be modified only by the same procedures by which the original designation is made”.*

The NMSA gives a Sanctuary the power to protect sanctuary resources, to include regulating anything flowing in to, or otherwise making its way in to, the sanctuary from outside its boundaries - if it is determined to have a negative impact on sanctuary resources. The

Sanctuary can also regulate interaction with living resources within sanctuary boundaries. For example, whale watching.

In terms of sanctuary regulations, fishing activities receive special consideration in Section 304 of the Act, which contains a lengthy paragraph describing the process of establishing regulation – if fishing regulation is specifically included a sanctuary's Terms of Designation. Distilling this process, one finds that the Secretary of Commerce must give the Regional Fishery Management Council (in our case the Pacific Fishery Management Council, or PFMC)) the opportunity to draft regulations for fishing which satisfy the policies of the proposed designation. If the Secretary finds these regulations insufficient, or if the Regional Fishery Management Council fails to act, then the Secretary is authorized to make the regulations. The Secretary is also directed to cooperate with other fishery management authorities having jurisdiction within a proposed sanctuary.

If fishing is not designated among the things a particular sanctuary can regulate, then fishery regulation is left to the existing State and Federal management authorities.

Also pertinent to the discussion of sanctuary regulation is the short section of the NMSA headed: ACCESS AND VALID RIGHTS, which states in full:

- (1) *“ Nothing in this chapter shall be construed as terminating or granting to the Secretary the right to terminate any valid lease, permit, license, or right of subsistence use or of access that is in existence on the date of designation of any national marine sanctuary.”*
- (2) *“The exercise of a lease, permit, license, or right is subject to regulation by the Secretary consistent with the purposes for which the sanctuary is designated.”*

Part (2) above seems to largely render the protection granted in Part (1) meaningless, because while the Secretary cannot revoke a lease, permit or right, he can effectively control and limit the exercise of it. This could, for instance, have serious implications for existing outfalls and dredge disposal sites, among other things.

In the ENFORCEMENT section of the NMSA one finds the following language under CIVIL PENALTIES: *“Any person subject to the jurisdiction of the United States who violates this chapter or any regulation or permit issued under this chapter shall be liable to the United States for a civil penalty of not more than \$100,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation”.*

Under the heading FORFEITURE the following language makes sobering reading for any mariner, and especially fishermen: *“IN GENERAL- Any vessel (including the vessel's equipment, stores and cargo) and other item used, and any sanctuary resource taken or retained, in any manner, in connection with or as a result of any violation of this chapter or of any regulation or*

permit issued under this chapter shall be subject to forfeiture to the United States pursuant to a civil proceeding under this subsection. The proceeds from the forfeiture actions under this subsection shall constitute a separate recovery in addition to any amounts recovered as civil penalties under this section or as civil damages under section 1443 of this title. None of those proceeds shall be subject to set-off."

One has to wonder under what circumstances the FORFEITURE provision of the Act would be utilized. For instance, what if a fisherman inadvertently strays over a sanctuary boundary line in the open ocean?

SPECIAL USE PERMITS is a section of the Act that may be considered as regulation. Anything that disturbs the sea bottom within a sanctuary typically requires a special use permit. If for instance a yacht club wanted to set a racing buoy within sanctuary boundaries, they may need a special permit for each buoy and for each time they move a buoy, because the mooring device rests on the bottom. Permanent navigational aids are exempted from this requirement. Additionally, whale watching within a sanctuary may be an activity requiring a permit. Further, the Act seems to require general liability insurance as a condition of obtaining a sanctuary Special Use Permit.

The Committee is actively researching sanctuary regulatory case studies, and will in a future report the results of its research.

Local Control Aspects

Local, regional and State control issues relative to a hypothetical marine sanctuary off the coast of Morro Bay are being referred to by the Committee as "Local Control" – meaning control other than that of the Federal government and Federal agencies.

During the past month, the Committee has begun to identify local and regional government entities, agencies, industry groups, and other non-government entities (NGO's) which have lived for a time with an established marine sanctuary. The Committee is interested in the experiences of these entities as they relate to a marine sanctuary in their area, whether the experiences have been positive, negative or neutral.

The Committee feels very strongly that various government entities and others which have lived with a marine sanctuary along the California coast be given an opportunity to share their experience with the City of Morro Bay and its citizens. The January 6, 2016 NOAA presentation in Morro Bay provided information and perspective from the viewpoint of the Office of National Marine Sanctuaries. This was important and valuable information for the City of Morro Bay and its citizens. What is needed in addition are further public information forums featuring representatives from City and County governments; port and harbor authorities; regional agencies; business interests such as fishing, agriculture, real estate and commerce; and other

NGO's which have lived with a marine sanctuary along the California coast. For purposes of these public information forums it makes no difference whether these experiences are positive, negative or neutral, as long as they are based upon facts, and do not stray into advocacy or bias.